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Attorneys for Defendants Michael Denham and
Township of Freehold
Our File No. 7000.9900

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

MICHAEL ROGERS,

Plaintiff,

vs.

MICHAEL DENHAM and TOWNSHIP OF
FREEHOLD

Defendants.

NOTICE OF REMOVAL

Document Electronically Filed

TO: CHIEF JUDGE JOHN W. BISSELL AND JUDGES OF
THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

ON NOTICE TO:

Timothy R. Smith & Associates, LLC
76 South Orange Avenue, Suite 201
South Orange, New Jersey 07079
Attorneys for the Plaintiff

PLEASE TAKE NOTICE that Defendants Michael Denham and Township of Freehold (“Defendants”) notice the removal of this action, pursuant to 28 U.S.C. §§ 1331 and 1441, et seq., from the Superior Court of New Jersey, Monmouth County, Law Division to the United States District Court for the District of New Jersey, and as grounds therefore shows as follows:

TIMELINESS OF REMOVAL

1. On or about March 27, 2008, Plaintiff Michael Rogers ("Plaintiff") served a Summons and Complaint on Defendants which was filed in the Superior Court of New Jersey, Monmouth County. A copy of the Complaint and Summons is attached as Exhibit A.

2. The Supreme Court of the United States has affirmatively established that the thirty (30) day period to remove an action to federal court begins to run on the date of proper service of the Summons and Complaint. Murphy Brothers, Inc. v. Michetti Pipe Stringing, Inc., 526 U.S. 344, 354 (1999)

3. Accordingly, pursuant to 28 U.S.C. § 1446(b), this Notice of Removal has been timely filed. Since the thirtieth day after Defendants were served with the Summons and Complaint was Saturday, April 26, 2008, Defendants are permitted to file this Notice of Removal on the next business day, April 28, 2008, pursuant to Federal Rule of Civil Procedure 6(a).

BASIS FOR REMOVAL

5. This action is properly removable under 28 U.S.C. § 1441(a)-(c), because the United States District Court has original jurisdiction in this case under 28 U.S.C. § 1331, which provides as follows:

The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.

6. In the Complaint, Plaintiff alleges in part that Defendants wrongfully engaged in conduct which violated Plaintiff's civil rights. This appears to be a cause of action pursuant to 42 U.S.C. § 1983 and/or § 1988. See Exhibit A, Complaint.

7. Accordingly, this Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331.

8. Moreover, this Court has supplemental jurisdiction over Plaintiff's various pendent state law claims pursuant to 28 U.S.C. § 1367.

9. Defendants have not previously sought similar relief.

WHEREFORE, Defendants respectfully request this Honorable Court take jurisdiction of this action and issue all necessary orders and process to remove said action to the United States District Court for the District of New Jersey.

Respectfully submitted,

SCARINCI & HOLLENBECK
Attorneys for Defendants Michael Denham and
Township of Freehold

By /s/ Christine M. Vanek
CHRISTINE M. VANEK, ESQ.

Dated: April 28, 2008

LOCAL CIVIL RULE 11.2 CERTIFICATION

I, Christine M. Vanek, Esq., counsel for Defendants certify that the matter in controversy is not the subject of any other action pending in any court nor any pending arbitration or administrative proceeding.

SCARINCI & HOLLENBECK
Attorneys for Defendants Michael Denham and
Township of Freehold

By /s/ Christine M. Vanek
CHRISTINE M. VANEK, ESQ.

Date: April 28, 2008

CERTIFICATION OF SERVICE

I hereby certify that I served copies of this Notice of Removal via New Jersey Lawyer's Service on this 28th day of April, 2008 on:

Pablo N. Blanco, Esq.
Timothy R. Smith & Associates, LLC
76 South Orange Avenue
South Orange, New Jersey 07079

Monmouth County Civil Division Office
Superior Court of New Jersey
71 Monument Park
PO Box 1266
Freehold, New Jersey 07728

and via United States Postal Service on:

Theodore Fetter, Acting Clerk
Superior Court of New Jersey
Hughes Justice Complex
CN -971
Trenton, New Jersey 08625

/s/ Christine M. Vanek
CHRISTINE M. VANEK

Dated: April 28, 2008

EXHIBIT "A"

MAR. 28. 2008 9:16AM

NO. 520 P. 4

Timothy R. Smith & Associates, LLC
76 South Orange Avenue, Suite 201
South Orange, NJ 07079
(973) 763-5400
Attorneys for Plaintiff

MICHAEL ROGERS,	:	SUPERIOR COURT OF NEW JERSEY
	:	MONMOUTH COUNTY - LAW DIVISION
	:	
Plaintiff(s),	:	Docket No. MON-L-1276-08
	:	
vs.	:	Civil Action
	:	
MICHAEL DENHAM	:	
TOWNSHIP OF FREEHOLD	:	SUMMONS
	:	
Defendant(s).	:	

The State of New Jersey to the Above Named Defendant(s):
Township of Freehold

YOU ARE HEREBY SUMMONED in a Civil Action in the Superior Court of New Jersey, instituted by the above plaintiff(s) and required to serve upon the attorney(s) for the plaintiff(s), whose name and office address appears above, an answered to the annexed complaint within **35** days after the service of the summons and complaint upon you, exclusive of the day of service. If you fail to answer, judgment by default may be rendered against you for the relief demanded in the complaint. You shall promptly file your answer and proof of service thereof with the Clerk of the Superior Court at the **Monmouth County Courthouse, 71 Monument Park, Freehold, New Jersey**, in accordance with the rules of civil practice and procedure.

If you cannot afford to pay an attorney, call a Legal Services Office. An individual not eligible for free legal assistance may obtain a referral to an attorney by calling a county lawyer referral service. These numbers may be listed in the yellow pages of your phone book or may be obtained by calling the New Jersey State Bar Association Lawyer Referral Service toll-free 800-792-8315 (within New Jersey) or 609-394-1101 (from out of state).

Dated: March 25, 2008

/s/ Donald F. Phelan
Donald F. Phelan, Superior Court Clerk

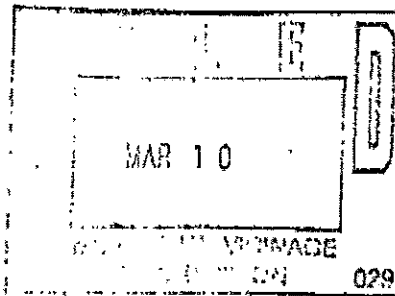
PLEASE FORWARD THIS SUMMONS & COMPLAINT TO YOUR INSURANCE COMPANY

Defendant(s): Township Clerk
Township of Freehold
One Municipal Plaza
Freehold, NJ 07728-3099

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NO. 520 P. 5

Timothy R. Smith & Associates, LLC
76 South Orange Avenue, Suite 201
South Orange, NJ 07079
(973) 763-5400
Attorneys for Plaintiff



MICHAEL ROGERS,

Plaintiff(s),

vs.

MICHAEL DENHAM
TOWNSHIP OF FREEHOLD

Defendant(s).

SUPERIOR COURT OF NEW JERSEY
MONMOUTH COUNTY - LAW DIVISION

Docket No. L 1276-08

Civil Action

COMPLAINT AND JURY DEMAND

The plaintiff, Michael Rogers, complaining against defendants, alleges as follows:

JURISDICTION

1. This action arises under the Constitution of the United States, particularly the Fourth, Sixth, and Fourteenth Amendments to the Constitution of the United States, and under the laws of the United States, particularly the Civil Rights Act, 42 U.S.C.A. §§1983 and 1988.
2. State courts have concurrent jurisdiction over claims arising under 42 U.S.C.A. §1983.

PARTIES

4. Plaintiff is now, and at all times mentioned was, a citizen of the United States of America, and at all times relevant resided at 136 Randolph Avenue, Freehold, Monmouth County, New Jersey.
5. Defendant, Township of Freehold, is a municipal corporation, organized and existing under and by virtue of the Constitution and laws of The State of New Jersey, and is located in Monmouth County, New Jersey.
6. Defendant, Michael Denham, is now, and at all times mentioned was, duly appointed, employed, and an acting police officer of defendant Township of Freehold. This defendant is

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sued in his individual capacity.

CAUSE OF ACTION

7. On or about July 14, 2005 plaintiff was lawfully on the premises know as 402 West Main Street, Freehold, New Jersey, an Escondido's restaurant.

8. At that time and place the defendant Denham approached the plaintiff and detained him. Such detention was effected without a reasonable and justifiable suspicion of any criminal activity. Thereafter defendant Denham arrested the plaintiff.

9. The arrest was conducted in a violent manner constituting an assault upon the plaintiff. Further, the arrest was conducted without a warrant and without probable cause and constituted a false arrest.

10. Thereafter defendant Denham falsely and maliciously charged the plaintiff with resisting arrest and aggravated assault on a police officer. Plaintiff was later found not guilty of the charges after a jury trial on February 28, 2007.

11. Defendant Denham acted under pretense and color of law and in his official capacity, but such acts were beyond the scope of his jurisdiction and without authorization of law. Defendant acted maliciously, wantonly, unlawfully, willfully, knowingly, and with the specific intent to deprive plaintiff of his rights to freedom from illegal searches and seizure of her person, papers, and effects, and of his rights to freedom from-unlawful arrest, detention, and imprisonment, all of which rights are secured to plaintiff by the Fourth, Sixth, and Fourteenth Amendment to the Constitution of the United States, and by 42 U.S.C.A. §§ 1983 and 1988.

12. The acts alleged above were committed either on the instruction of superior officers of the defendant Township of Freehold, or with their knowledge and consent, or were thereafter approved and ratified by defendant Township of Freehold.

13. Pursuant to 42 U.S.C.A. § 1988, plaintiff is entitled to a reasonable allowance for attorney fees as a part of his costs.

WHEREFORE, Plaintiff demands judgment against defendants jointly, severally and individually for compensatory and punitive damages together with lawful interest; attorneys and costs of suit; and for such other and further relief as the court deems just and proper.

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JURY DEMAND

Plaintiff hereby demands a trial by jury on all issues herein.

DESIGNATION OF TRIAL COUNSEL

Pablo N. Blanco is hereby designated as trial counsel pursuant to Rule 4:25-4.

Timothy R. Smith & Associates, LLC
Attorneys for Plaintiff

By: 
Pablo N. Blanco, Esq.

Dated: February 5, 2008

CERTIFICATION PURSUANT TO RULE 4:5-1

It is hereby certified pursuant to Rule 4:5-1 as follows:

1. The matter in controversy is not the subject of any other action pending in any Court or of a pending arbitration proceeding and no such other action or arbitration is contemplated to the knowledge of this party.
2. This party knows at this time of no other parties that should be joined in this action.

Timothy R. Smith & Associates, LLC
Attorneys for Plaintiff

By: 
Pablo N. Blanco, Esq.

Dated: February 5, 2008